



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

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Inventors: Naoyasu MIYAGAWA, et al. Art Unit: 2655
Appln. No.: 09/420,603 Examiner: N. Hindi
Filed: October 19, 1999
For: OPTICAL RECORDING/REPRODUCING APPARATUS FOR
OPTICAL DISKS WITH VARIOUS DISK SUBSTRATE
THICKNESSES

SUPPLEMENTAL REPLY BRIEF

This appeal was remanded to the examiner on September 16, 2003, for the purpose of reconsideration of the recapture rejection in light of the precedential Board decision in *Ex parte Eggert et al.*¹ decided May 29, 2003 by an expanded panel of the Board of Patent Appeals and Interferences. This Decision illuminates various CCPA and CAFC decisions cited in the Answer, such as *Hester Industries*, *In re Clement*, *Ball Corp.*, *Pannu*, and *Mentor*.

The Supplemental Examiner's Answer (hereinafter, "Answer") of January 24, 2005, addresses various issues in addition to those raised by *Eggert*.

This Supplemental Reply Brief addresses the points of argument asserted in the Answer, which include (1) reassertion of various arguments made in the first Examiner's Answer, (2) arguments

¹67 USPQ2d 1716 (BPAI 2003); hereinafter, "*Ex parte Eggert*," "*Eggert et al.*" or "*Eggert*" refers to this decision and not the earlier board decisions also involving *Eggert et al.*